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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,296	12/31/2003	Maurice Behague	069208.0116	9789
23640	7590	05/22/2007		
BAKER BOTTS, LLP 910 LOUISIANA HOUSTON, TX 77002-4995			EXAMINER CRAIG, PAULA L	
			ART UNIT 3761	PAPER NUMBER
			MAIL DATE 05/22/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/749,296

Applicant(s)

BEHAGUE ET AL.

Examiner

Paula L. Craig

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3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed March 16, 2007 have been fully considered but they are not persuasive. Applicant argues that the association device does not include the peristaltic pump or any part thereof. However, the claims do not require that the association device is not part of the peristaltic pump or not attached to the peristaltic pump. The words "association" or "associate" generally refer to connecting, combining, joining, accompanying, or correlating. The term "association device" is not defined in the specification. While certain embodiments of the association device are described, such as the embodiments shown in Figs. 1-4 of the specification, the claims are not limited to the disclosed embodiments (see specification, page 4, lines 22-23, page 10, lines 25-29). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

2. Applicant also argues that Gilcher '630 does not teach separate first and second flexible tubes, with the second flexible tube providing fluid communication between the solution bag and the collection bag. Gilcher teaches separate first and second flexible tubes (the first tube is tubing 40, the second tube is tubing 18; Fig. 1). The claims do not require that the fluid communication must be direct and may not involve any other tube or passage through a connector. The claims require that the association device is operable to form a loop. The claims also require that the second flexible tube is

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between the association device and the connector. The claims do not require that the loop is formed entirely from the second flexible tube and includes no part of the first flexible tube. The loop is formed by tubing 18 and tubing 40 of Gilcher '630 (Fig. 1). Gilcher teaches a portion of the second flexible tube being located between the association device and the connector (tubing 18 runs between the association device and the Y-junction 15; Fig. 1). The claims do not require that all of the loop be located between the association device and the connector. While not necessary to the above analysis, note that Claim 1 does not actually require a loop, but only that the association device is operable to form a loop.

3. Applicant also argues that Gilcher '630 teaches the tubing passing twice over the peristaltic pump. The claims also do not require that the tubing pass only once over the peristaltic pump.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. The rejection of Claims 1, 2, 3, 5, and 11 under 35 U.S.C. 102(b) as being anticipated by Gilcher (US 4,385,630) is maintained for the reasons of record, as well as the reasons described above in paragraphs 1-3.

Claim Rejections - 35 USC § 103

6. The rejection of Claim 12 under 35 U.S.C. 103(a) as being unpatentable over Gilcher '630 is maintained for the reasons of record, as well as the reasons described above in paragraphs 1-3.

7. The rejection of Claim 4 under 35 U.S.C. 103(a) as being unpatentable over Gilcher '630 in view of Becker (US 4,558,996) is maintained for the reasons of record, as well as the reasons described above in paragraphs 1-3.

8. The rejection of Claims 6, 7, and 8 under 35 U.S.C. 103(a) as being unpatentable over Gilcher '630 in view of Poulsen (US 5,309,604) is maintained for the reasons of record, as well as the reasons described above in paragraphs 1-3.

9. The rejection of Claims 9-10 under 35 U.S.C. 103(a) as being unpatentable over Gilcher '630 in view of Giesler (US 5,868,696) is maintained for the reasons of record, as well as the reasons described above in paragraphs 1-3.

10. The rejection of Claim 13 under 35 U.S.C. 103(a) as being unpatentable over Gilcher '630 in view of Tamari (US 5,215,450) is maintained for the reasons of record, as well as the reasons described above in paragraphs 1-3.

11. The rejection of Claim 14 under 35 U.S.C. 103(a) as being unpatentable over Gilcher '630 in view of Wisdom (US 4,596,657) is maintained for the reasons of record, as well as the reasons described above in paragraphs 1-3.

12. The rejection of Claim 15 under 35 U.S.C. 103(a) as being unpatentable over Gilcher '630 in view of Gilcher (US 6,113,554) is maintained for the reasons of record, as well as the reasons described above in paragraphs 1-3.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula L. Craig whose telephone number is (571) 272-5964. The examiner can normally be reached on M-F 8:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paula L Craig
Examiner
Art Unit 3761

PLC

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER
